



Billing Code: 4510-28-P

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**North American Agreement on Labor Cooperation  
Notice of Determination Regarding Review of Submission  
#2011-02**

**AGENCY:** Bureau of International Labor Affairs, U.S. Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Office of Trade and Labor Affairs (OTLA) gives notice that on January 13, 2012, Submission #2011-02 was accepted for review pursuant to Article 16.3 of the North American Agreement on Labor Cooperation (NAALC).

The *Sindicato Mexicano de Electricistas* (SME), a Mexican union, filed the submission with OTLA on November 14, 2011. The SME also filed the submission on behalf of 93 other organizations. The submitters allege that the Government of Mexico (GOM) failed to fulfill its obligations under Articles 2 through 6 of the NAALC. The submission alleges that these violations of the NAALC stem from a number of actions or failures to take action on the part of the GOM starting with the issuance of a Presidential decree on October 10, 2009 dissolving the state-owned electrical power company, Central Light and Power (*Luz y Fuerza del Centro*), thereby in effect terminating the employment of over 44,000 SME members. According to the submission, the GOM's subsequent actions or lack thereof denied these workers their rights under Mexican law related to

freedom of association, the right to organize, the right to bargain collectively, and the prevention of occupational injuries and illnesses. If substantiated, such statements in the submission could constitute a failure on the part of Mexico to comply with its obligations under the NAALC.

The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the U.S.

Government's views regarding whether the GOM's actions were consistent with its obligations under the NAALC.

**EFFECTIVE DATE:** January 13, 2012

**FOR FURTHER INFORMATION CONTACT:** Gregory Schoepfle, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-5303, Washington, DC 20210. Telephone: (202) 693-4900. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Article 16.3 of the NAALC requires each Party's National Administrative Office (NAO) to provide for the submission, receipt and review of public communications of labor law matters arising in the territory of another Party. In the United States, the NAO was re-designated as OTLA in a *Federal Register* notice issued on December 21, 2006 (71 Fed. Reg. 76691 (2006)). The same *Federal Register* notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions. These Procedural Guidelines are

available at <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>. According to the definitions contained in the Procedural Guidelines (Section B) a “submission” is “a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter or Part Two of the NAALC.”

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter or the NAALC;
2. Whether a review would further the objectives of a labor chapter or the NAALC;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter or the NAALC;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and

6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission #2011-2 alleges that the GOM, through a Presidential Decree dated October 10, 2009, terminated 44,000 workers of *Luz y Fuerza del Centro* without the legally required notice; failed to transfer the employer's obligations to the new employer as a substitute employer; failed to give fired union workers preference in the hiring process; failed to guarantee the right to freedom of association; failed to negotiate economic bargaining issues with the union; failed to effectively enforce its labor inspection laws regarding occupational safety and health (OSH) regulations; and failed to provide an effective judicial process for the terminated workers. In particular, the SME alleges that the Mexican government violated Articles 41, 47, 53, 154, 357, 358, 386, 387, 433, 434, 435, 438, 541, 542, and 900 through 919 of the Mexican Federal Labor Law, and Articles 9, 14, and 17 of the Mexican Constitution. U.S. Submission # 2011-02 alleges that Mexico has failed to effectively enforce its labor law under NAALC Articles 2 through 6, and relates to labor law enforcement matters in Mexico.

In determining whether to accept the submission, OTLA considered the relevant factors in light of the statements in the submission and additional supplementary information provided by the submitters. The submission clearly identifies the submitters, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review. It also raises issues relevant to labor law matters arising under the

NAALC and a review would appear to further the objectives of the NAALC. In addition, it appears that statements contained in the submission could, if substantiated, constitute a failure of the GOM to comply with its NAALC obligations. The submission described the extensive efforts of the SME to seek appropriate relief under domestic laws and procedures. Accordingly, the OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the issues raised by the submission. OTLA will complete the review and issue a public report within 180 days, unless circumstances, as determined by OTLA, require an extension of time, as set out in the Procedural Guidelines. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on January 13, 2012

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Sandra Polaski  
Deputy Undersecretary for International Affairs